

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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RANDY RANSOM, *et al.*,

Plaintiffs,

V.

Case No. 2:13-cv-01588-RFB-GWF

ORDER

Defendants' Motion to Dismiss (ECF No. 24)

CITY OF HENDERSON, a political subdivision
of the STATE OF NEVADA, *et al.*,

Defendants.

13 This case is before the Court on a Motion to Dismiss filed by Defendants the City of
14 Henderson, the City of Henderson Police Department (“HPD”), the City of Henderson
15 Alternative Sentencing Division (“HASD”), Henderson Police Detectives W. Hart and B.
16 Harper, Probation Officers I. Massy and M. Jacobs, and numerous Doe defendants. ECF No. 24.
17 In their First Amended Complaint, brought pursuant to 42 U.S.C. § 1983, Plaintiffs Randy
18 Ransom, Garrett Ransom, and Shannon Ransom—through her guardian *ad litem*, Diana
19 Ransom—alleged that on August 30, 2011, Defendants unlawfully searched Randy, destroyed
20 his property, and unlawfully seized all three Plaintiffs. ECF No. 13. Plaintiffs alleged fifteen
21 claims for relief, alleging violations of their Fourth, Sixth, and Fourteenth Amendment rights as
22 well as various state law claims. *Id.* at 9-31. Defendants moved to dismiss on various grounds.
23 ECF No. 24. On February 19, 2015, this Court held a hearing and oral argument on the Motion to
24 Dismiss.

For the reasons stated on the record at the hearing held on February 19, 2015,

26 **IT IS ORDERED** that Defendants' Motion to Dismiss (ECF No. 24) is **GRANTED IN**
27 **PART** and **DENIED IN PART**.

28

1 **IT IS FURTHER ORDERED** that Defendant Henderson Police Department and
2 Defendant Henderson Alternative Sentencing Division are **DISMISSED** from this case. Should
3 Plaintiffs uncover evidence at a future point in this action that either or both of these Defendants
4 have the capacity to be sued, Plaintiffs may seek leave of the Court to amend their complaint to
5 add HPD and HASD as parties.

6 **IT IS FURTHER ORDERED** that Plaintiffs' state law claims set forth in the Sixth
7 through Fifteenth Claims for Relief, except for the Eleventh Claim for Relief (Conversion) and
8 the Fifteenth Claim for Relief (Negligence Per Se), are **DISMISSED WITHOUT PREJUDICE**
9 to the extent they are asserted against the City of Henderson and against Defendants Hart,
10 Harper, Massy, and Jacobs in their official capacities. These state law claims may proceed to the
11 extent they are alleged against Defendants Hart, Harper, Massy, and Jacobs in their individual
12 capacities.

13 **IT IS FURTHER ORDERED** that Plaintiffs' Tenth Claim for Relief (Concert of
14 Action) is **DISMISSED WITH PREJUDICE**, except as it relates to the conduct alleged in the
15 Third, Fourth, Seventh, and Eighth Claims for Relief, which deal with the manner in which
16 Defendants allegedly entered the Trueno Residence.

17 **IT IS FURTHER ORDERED** that Plaintiffs' Third Claim for Relief (Illegal Seizure of
18 Shannon and Sixth Amendment Violations) is **DISMISSED WITH PREJUDICE** to the extent
19 that it asserts claims for violation of the right to counsel under the Sixth and Fourteenth
20 Amendments. The Third Claim for Relief may proceed to the extent that it asserts claims for
21 illegal seizure under the Fourth and Fourteenth Amendments.

22 **IT IS FURTHER ORDERED** that the Doe Defendants are **DISMISSED** from this case.
23 Should Plaintiffs desire to add additional defendants in this action, they must seek leave of the
24 Court to do so.

25 **IT IS FURTHER ORDERED** that Plaintiffs may not recover punitive damages against
26 the City of Henderson or against Defendants Hart, Harper, Massy, and Jacobs in their official
27 capacities. Punitive damages remain available at this time for Plaintiffs' claims as asserted
28 against Defendants Hart, Harper, Massy, and Jacobs in their individual capacities.

1 **IT IS FURTHER ORDERED** that Plaintiffs' remaining claims may proceed.

2 **IT IS FURTHER ORDERED** that Plaintiffs shall have until **March 23, 2015** to amend
3 their Complaint to cure the deficiencies in their state law claims as set forth above and, if they so
4 choose, to add the municipal liability claim discussed at the hearing on February 19, 2015.

5 DATED this 20th day of February, 2015.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE